

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Opoku-Agyemang	Team: Squad #5	CCRB Case #: 201506866	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 08/07/2015 1:20 PM	Location of Incident: 76th Precinct stationhouse	Precinct: 76	18 Mo. SOL 2/7/2017	EO SOL 2/7/2017	
Date/Time CV Reported Fri, 08/07/2015 2:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/17/2015 1:38 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Patrick Quigley	00005	934081	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Steven Souffrin	15876	937575	076 PCT
2. POM Julio Rodriguez	22668	939344	076 PCT
3. POM John Uske	02554	939622	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Patrick Quigley	Force: Sergeant Patrick Quigley used physical force against § 87(2)(b)	
B.SGT Patrick Quigley	Force: Sergeant Patrick Quigley struck § 87(2)(b) against a wall.	
§ 87(4-b), § 87(2)(g)		

### **Case Summary**

This case was not closed within 90 days because of the difficulty encountered in obtaining a sworn statement from § 87(2)(b) who was an incarcerated minor. The CCRB needed to obtain permission from both his mother and attorney, who requested to be present for the interview, before interviewing § 87(2)(b)'s attorney failed to appear for the first scheduled interview with § 87(2)(b) and he could therefore not be interviewed. She appeared for a second interview appointment and a statement was obtained from § 87(2)(b) over a month after the CCRB received the complaint from IAB.

At approximately 1:21 a.m. on August 7, 2015, § 87(2)(b) was arrested by Police Officer Steven Souffrin of the 76<sup>th</sup> Precinct for § 87(2)(b) (BR01). § 87(2)(b)'s attorney requested that the CCRB not obtain a statement from § 87(2)(b) regarding his arrest or conduct an investigation into its circumstances.

At approximately 1:20 p.m. on August 7, 2015, § 87(2)(b) was taken to the office of the 76<sup>th</sup> Precinct Field Intelligence Officer (FIO), Sergeant Patrick Quigley of the Intelligence Division. Present in the room were Police Officer Souffrin, Sergeant Quigley, Sergeant Quigley's assistant, Police Officer Julio Rodriguez of the 76<sup>th</sup> Precinct, and Police Officer John Uske, the Assistant of the Field Intelligence Officer of the 84<sup>th</sup> Precinct, the precinct within which § 87(2)(b) resided. While Sergeant Quigley was questioning § 87(2)(b), § 87(2)(b) stood up out of the chair to which one of his hands was handcuffed. Sergeant Quigley allegedly struck § 87(2)(b) in the mouth, causing him to suffer a cut to his lip and to fall to the ground (**Allegation A**). The officers rehandcuffed § 87(2)(b) and Sergeant Quigley walked him out of the office. As Sergeant Quigley was walking him to the staircase that led back up to the main floor of the stationhouse, Sergeant Quigley allegedly pushed him against a wall (**Allegation B**). Sergeant Quigley failed to make a memo book entry in regards to this incident (**Allegation C**).

There was no video footage for this incident.

### **Mediation, Civil and Criminal Histories**

As per the Comptroller's Office, as of November 17, 2015, no Notice of Claim had been filed in regards to this incident (BR02). As a result of § 87(2)(b)'s arrest, this complaint was deemed unsuitable for mediation. As of November 24, 2015, the court case stemming from § 87(2)(b)'s arrest remains open with the next court date scheduled for § 87(2)(b). § 87(2)(b) has no prior convictions (BR03).

### **Civilian and Officer CCRB Histories**

- This is the first CCRB case involving § 87(2)(b) (BR04).
- Sergeant Quigley has been a member of the NYPD for 11 years and has had 21 previous CCRB allegations in eight cases with two substantiated allegations in one case. In CCRB case #201200818, allegations of stop and frisk were substantiated against Sergeant Quigley. § 87(2)(g)

### **Potential Issues**

- § 87(2)(b) alleged that there were five officers in the FIO's Office when Sergeant Quigley struck him. Sergeant Quigley, Police Officer Rodriguez, Police Officer Souffrin,

and Police Officer Uske all consistently stated that there were four officers present when this occurred and identified each other as those four officers.

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

§ 87(2)(b) Sergeant Quigley, Police Officer Souffrin, and Police Officer Rodriguez all identified Sergeant Quigley as the sole officer whose actions caused § 87(2)(b) to go to the ground and stated that the remaining officers did not make contact with § 87(2)(b) until he was on the ground. Police Officer Uske stated that all four officers were involved in taking § 87(2)(b) to the ground. Given the consistency between § 87(2)(b)'s statement and those of the other officers, a physical force allegation has been pleaded against Sergeant Quigley in regards.

§ 87(2)(b) identified Sergeant Quigley as the officer who walked him out of the office and pushed him against a wall before Police Officer Rodriguez took hold of him and walked him up the stairs. Both Police Officer Souffrin and Police Officer Rodriguez confirmed that Sergeant Quigley held § 87(2)(b) as he was walked out of the office and then handed him off to Police Officer Rodriguez. Both denied observing Sergeant Quigley pushing § 87(2)(b) or observing § 87(2)(b) making contact with a wall. Sergeant Quigley and Police Officer Uske could not recall which officer held § 87(2)(b) as he was walked out of the officer. Sergeant Quigley denied having pushed § 87(2)(b) against a wall and Police Officer Uske denied having observed this happen. A physical force allegation was pleaded against Sergeant Quigley in regards.

#### **Allegations not pleaded**

On the advisement of his attorney, who was present during his sworn statement, § 87(2)(b) refused to provide a statement regarding the circumstances of his arrest. He did not make or reference any FADO allegations associated with his arrest.

### **Recommendations**

#### **Allegation A – Force – Sergeant Patrick Quigley used physical force against § 87(2)(b)**

Sergeant Quigley filed the initial complaint on behalf of § 87(2)(b) via IAB and filed a UF-49 Unusual Occurrence Report in regards on August 7, 2015 (BR05). The complaint was forwarded to the CCRB on August 17, 2015. A sworn statement was obtained from § 87(2)(b) on September 28, 2015. The CCRB interviewed Sergeant Quigley and Police Officer Souffrin on October 16, 2015, and Police Officer Rodriguez and Police Officer Uske on October 22, 2015.

It is undisputed that, while being questioned in the FIO's Office in the 76<sup>th</sup> Precinct stationhouse, § 87(2)(b) stood up from the chair that one of his hands was cuffed to and that Sergeant Quigley took an action that caused § 87(2)(b) suffer a cut to the inside of his lip and to go to the ground. What is disputed is what § 87(2)(b) did after standing up and the nature of the physical force used by Sergeant Quigley in response.

As per § 87(2)(b) when he was taken into Sergeant Quigley's office, Sergeant Quigley

repeatedly asked him where “the guns” were. § 87(2)(b) repeatedly replied that he wanted his mother and lawyer. § 87(2)(b) became angered by the repeated questions and stood up from the chair in which he was sitting and to which one hand was cuffed. § 87(2)(b) denied that he lifted up the chair after standing up. Sergeant Quigley, who was sitting in a couch approximately 10 feet from § 87(2)(b) immediately ran towards § 87(2)(b) and punched him in the mouth. The punch caused § 87(2)(b) to immediately trip over the chair to which he was handcuffed and fall onto the ground onto his side. § 87(2)(b) attributed the cut to his lip to Sergeant Quigley’s punch.

§ 87(2)(b) was treated by EMS at the 76<sup>th</sup> Precinct. He initially refused medical attention but, due to the fact that he was a minor, he still received treatment and was taken to Methodist Hospital. As per the Ambulance Call Report (Privileged Documents), § 87(2)(b)’s chief complaint was “My upper lip hurts,” with a provider impression of “No medical problem” and a mechanism of injury of “fight/brawl.” The narrative notes that “[patient] states he got into a little fight with PD.” As per § 87(2)(b)’s medical records from § 87(2)(b), a “[§ 87(2)(b)]-old] male presents in custody of NYPD with lip pain and swelling. [Patient] got upset while in custody and police had to restrain him, which caused [patient’s] lip to hit ground. No head trauma, [loss of consciousness], dental pain, bleeding, other areas of pain.” It is unclear who provided this history to the hospital staff. A physical examination of his mouth revealed “minimal swelling to upper lip with abrasion. No laceration or need for sutures.” He was diagnosed with “contusion and abrasion of upper lip” and was given an ice pack. He refused medication.

The officers consistently stated that § 87(2)(b) appeared to be upset prior to coming to the FIO’s Office, possibly in regards to the fact that an individual with whom he had been arrested had been released. As per Police Officer Rodriguez, when § 87(2)(b) found out about the fact that his companion had been released, he cursed and stated that his companion must have “snitched” on him. The officers consistently stated that, while Sergeant Quigley was questioning § 87(2)(b) he rose up and picked up the chair on which he was sitting. The officers, however, provided differing accounts of what occurred at this point.

As per Sergeant Quigley, § 87(2)(b) stood up suddenly and, in one instantaneous continuous motion, moved the chair he was sitting on to the side by using the hand that was cuffed to it to grab the armrest to which it was cuffed, used his free hand to grab the “free” armrest of the chair, lifted the chair up and over his head with both hands, and leaned his body forward, towards Police Officer Rodriguez and Sergeant Quigley. Sergeant Quigley believed that § 87(2)(b) “was in the process of throwing it at” them. At this point § 87(2)(b)’s body was turned “very slightly” to the left, towards Police Officer Rodriguez. As § 87(2)(b) was lifting the chair, Sergeant Quigley stood up, took approximately one step, and grabbed § 87(2)(b) with both arms in order to control him to keep him from hitting them with the chair. The inside of Sergeant Quigley’s right forearm made contact with § 87(2)(b)’s mouth in the process. Sergeant Quigley stated that he attempted to grab § 87(2)(b)’s face because “it was the only area [he] felt [he] could grab without getting hit with the chair.” Sergeant Quigley did not recall where on § 87(2)(b)’s body his left arm made contact. When Sergeant Quigley grabbed § 87(2)(b) they both became off-balance and fell to the floor.

Sergeant Quigley denied having punched § 87(2)(b) or his fist having made contact with him.

No part of Sergeant Quigley's body, aside from the inside of his forearm, made contact with § 87(2)(b)'s mouth. Sergeant Quigley believed that the injury to § 87(2)(b)'s lip was caused by the contact between his forearm and § 87(2)(b)'s mouth. Sergeant Quigley stated that he had not intended to strike § 87(2)(b) with his forearm. Sergeant Quigley believed, however, that he would have been justified in striking § 87(2)(b) in order to prevent him from striking him with the chair.

Police Officer Souffrin and Police Officer Uske stated that § 87(2)(b) picked up the chair using the armrest to which he was handcuffed with the hand that was cuffed to it and swung it towards the left side of the room, where Police Officer Rodriguez and Police Officer Uske were sitting. Police Officer Souffrin stated that § 87(2)(b) swung the chair with an overhand "pitching motion." Police Officer Uske could not recall how § 87(2)(b) swung the chair. Police Officer Rodriguez stated that he was sitting at his desk using his computer when he heard the sound of an object striking his desk. He looked up and observed § 87(2)(b) standing up. He did not recall how or where the chair was positioned at this point but he was informed by the other officers in the room that § 87(2)(b) had swung the chair and that it had struck his desk. No other officer, in their CCRB statement, mentioned the chair having struck any objects.

Both Police Officer Souffrin and Police Officer Rodriguez stated that, after § 87(2)(b) swung the chair, Sergeant Quigley made physical contact with him, causing him to fall to the ground. Police Officer Souffrin stated that Sgt. Quigley "hugged" § 87(2)(b) by wrapping both arms around him in the "shoulder area." Police Officer Souffrin could not recall what position § 87(2)(b)'s arm or the chair was at the time Sergeant Quigley grabbed him. Police Officer Rodriguez observed Sergeant Quigley "throw" or "tackle" § 87(2)(b) to the ground with his outstretched arm in a "clothesline." Police Officer Rodriguez observed only one of Sergeant Quigley's arms make contact with § 87(2)(b) but he did not recall where on § 87(2)(b)'s body Sergeant Quigley's arm made contact.

Police Officer Uske stated that, after § 87(2)(b) swung the chair, all four officers "jumped on" § 87(2)(b) and "tackled" him to the ground. Police Officer Uske, however, did not recall what specific action he or any of the other officers took in taking § 87(2)(b) to the ground.

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Penal Law Section 35.30 (BR06) and Patrol Guide Procedure 203-11 (BR06) hold that an officer may use reasonable and necessary physical force in self-defense or to defend a third person from

what the officer reasonably believes to be the use or imminent use of physical force.

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation B – Force – Sergeant Patrick Quigley struck § 87(2)(b) against a wall.**

§ 87(2)(b) alleged that, as Sergeant Quigley walked him to the stairs that led up to the main floor of the stationhouse, he pushed § 87(2)(b) in the back. § 87(2)(b) was standing approximately two feet from the wall when Sergeant Quigley pushed him. § 87(2)(b)'s face and chest struck the wall. He suffered no injuries from this. Sergeant Quigley denied having done this and the other officers denied having observed this. § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(4-b), § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Squad: 5

Investigator: \_\_\_\_\_ Alexander Opoku-Agyemang November 24, 2015  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date